

UPPER MERION AND PLYMOUTH RAILROAD COMPANY
P.O. Box 404
Conchohocken, Pennsylvania 19428

11298
RECORDATION NO. 11298 Filed 1425

DEC 28 1979 - 3 10 PM

December 28, 1979

INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission
Washington, DC 20423

Attn: Secretary

Dear Sir:

11298
RECORDATION NO. 11298 Filed 1425

DEC 28 1979 - 3 10 PM

INTERSTATE COMMERCE COMMISSION

No.

Date DEC 28 1979

Fee \$ 50.00

ICC Washington, D. C.

It is hereby respectfully requested that the following documents be recorded pursuant to the provisions of the Interstate Commerce Act (Title 49 U.S.C. §11303):

Conditional Sale Agreement, dated as of
December 10, 1979, between

Builder/Vendor - The Chessie Corporation
2 North Charles Street
Baltimore, Maryland 21201

Purchaser/Vendee - Upper Merion and Plymouth
Railroad Company
P.O. Box 404
Conshohocken, Pa. 19428

Agreement and Assignment, dated as of
December 10, 1979, between

Builder/Assignor - The Chessie Corporation
2 North Charles Street
Baltimore, Maryland 21201

Investor/Assignee - Lincoln First Bank N.A.
One Lincoln First Square
Rochester, New York 14643

General Description of the Equipment:

22 Open-Top Hopper Cars (100-ton),
bearing Upper Merion and Plymouth
Railroad Company Road Numbers
UMP 7233 to UMP 7254 (both
inclusive).

Sincerely yours,

John D. McPherson
Assistant Secretary

DEC 28 3 02 PM '79
T.O.C.
FEE OPERATION BR.

Countdown - C.T. Kennedy

RECORDATION NO. 11298-B Filed 1425

11298-B
\$ 50

FEB 13 1980 - 3 10 PM

INTERSTATE COMMERCE COMMISSION
FURTHER ASSIGNMENT AND AGREEMENT

FURTHER ASSIGNMENT AND AGREEMENT, dated as of February 13, 1980, between LINCOLN FIRST BANK, N.A., a national banking association (hereinafter called the "Bank"), and THE OHIO NATIONAL LIFE INSURANCE COMPANY, an Ohio corporation (hereinafter called "Ohio National"), under a Closing Agreement dated as of January 30, 1980 (hereinafter called the "Agreement").

WHEREAS, The Chessie Corporation (hereinafter called the "Builder") and The Upper Merion and Plymouth Railroad Company (hereinafter called the "Vendee") have entered into a Conditional Sale Agreement dated as of December 10, 1979 (hereinafter called the "Conditional Sale Agreement") filed and recorded with the Interstate Commerce Commission under Index No. 11298 covering the assembly, construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex B to the Conditional Sale Agreement and bearing identification numbers UMP 7233 through UMP 7254, inclusive (said equipment being hereinafter called the "Equipment");

WHEREAS, the Bank is the assignee of the Conditional Sale Agreement under and by virtue of an Agreement and Assignment dated as of December 10, 1979 and filed and recorded with the Interstate Commerce Commission under Index No. 11298-A (hereinafter called the "Assignment") between the Builder as assignor and the Bank as assignee;

WHEREAS, the Conditional Sale Agreement and the Assignment contemplate the reassignment of the Conditional Sale Agreement to a third party upon the payment to the Bank of an amount equal to all indebtedness outstanding under the Conditional Sale Agreement;

NOW, THEREFORE, THIS FURTHER ASSIGNMENT AND AGREEMENT WITNESSETH: that in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by Ohio National to the Bank, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. The Bank hereby assigns, transfers and sets over unto Ohio National, its successors and assigns:

(a) all the rights, and security interests of the Bank in and to each unit of the Equipment;

(b) all the rights and security interests of the Bank in and to the Conditional Sale Agreement (except the right of the Builder to construct and deliver the Equipment and to receive the payments specified in subparagraph (a) of the fourth paragraph of Article 3 thereof, the right of the Builder to reimbursement, as provided in Article 6 thereof, for taxes paid or incurred by the Builder), and, except as aforesaid, in and to any and all amounts which hereafter may be or become due or owing to the Builder or the Bank under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Vendee under the Conditional Sale Agreement, other than those hereinabove excluded;

(c) except as limited by subparagraph (b) of this paragraph, all rights, powers, privileges and remedies of the Bank under the Conditional Sale Agreement;

(d) all rights, powers, privileges and remedies of the Bank under the Assignment except the right to receive, collect, and sue for interest on the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) heretofore paid to and received by the Bank; and

(e) all rights, powers, privileges and remedies of the Bank under the Participation Agreement dated as of December 10, 1979 among the Vendee, the Bank, FSC Corporation, and Funding Systems Railcars, Inc.;

without any recourse however, against the Bank (except for its representations, warranties and agreement as set forth under Section 4 hereof) or the Builder; provided, however, that this Assignment shall not subject Ohio National to, or transfer, or pass, or in any way affect or modify the obligations of the Builder to deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements referred to in Article 13 of the Conditional Sale Agreement or relieve the Vendee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the Conditional Sale Agreement, it being understood that, notwithstanding this Agreement or any subsequent assignment pursuant to the provisions of Article 14 of the Conditional Sale Agreement, to the extent provided therein and in the Assignment, all obligations of the Builder to the Vendee with respect to the Equipment shall be and remain

enforceable by the Vendee, its successors and assigns against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Bank authorizes and empowers Ohio National, in its name, or in the name of its nominee, or, to the extent provided in the Assignment, in the name of and as attorney for the Builder, or in the name of and as attorney, hereby irrevocably constituted, for the Bank, to ask, demand, sue for, collect, receive and enforce any and all sums to which Ohio National is or may become entitled under this Agreement and compliance by the Vendee with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability, and for the sole benefit of Ohio National.

SECTION 2. Concurrently with the execution of this Agreement, the Bank transfers and delivers to Ohio National the original, executed copy of the documents specified in clause (a), of Section 4 of the Assignment without any representation or warranty as to the accuracy, completeness or sufficiency thereof.

SECTION 3. Ohio National agrees that, as and to the extent required by the second paragraph of Section 3 of the Assignment, it will give prompt notice to the Builder of any claims, actually known to Ohio National, for alleged patent or any other infringement. Ohio National further agrees to give written notice to the Vendee of the assignment hereunder, together with a counterpart or copy of this Agreement, stating the identity and post office address of Ohio National.

SECTION 4. The Bank hereby represents and warrants to Ohio National, its successors and assigns, that:

(a) this Assignment and the Agreement have been duly authorized by the Bank and have been duly executed and delivered by duly authorized officers of the Bank and constitute the legal, valid and binding obligations of the Bank enforceable against the Bank in accordance with their terms;

(b) the Bank has not entered into any amendment or modification of the Conditional Sale Agreement, Assignment or Participation Agreement;

(c) the unpaid principal amount of the conditional sale indebtedness under the Conditional Sale Agreement is \$590,881.37, and interest thereon accrued to the date of execution and delivery hereof has been paid to the Bank;

(d) to the best of its knowledge, no Event of Default, or event which with the lapse of time or giving of notice, or both, would constitute an Event of Default, has occurred under the Conditional Sale Agreement;

(e) the Conditional Sale Agreement, the Assignment and the Certificate of Interest therein referred to (i) have not been transferred or assigned by the Bank, except for the assignment and transfer pursuant to this Assignment; (ii) are not subject to any contract or agreement providing for the transfer or assignment thereof by the Bank, except for the assignment and transfer pursuant to this Agreement; and (iii) are free from any security interest, encumbrance or claim in favor of any party claiming by, through or under the Bank; and

(f) no lien or encumbrance has attached to the Equipment (other than pursuant to the Conditional Sale Agreement) by any party claiming by, through or under the Bank.

The Bank further agrees that it will from time to time, at the request and expense of Ohio National or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance, and do all such further acts and things as may be necessary and appropriate in the premises, to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights and interests hereby assigned and transferred to Ohio National or intended so to be.

Except as specifically set forth in this Section 4, the Bank makes no representations or warranties to Ohio National concerning the Conditional Sale Agreement, the Equipment or the title thereto.

SECTION 5. This Further Assignment and Agreement, constituting an assignment of rights under a conditional sale agreement which by its terms is governed by the laws of the Commonwealth of Pennsylvania, the terms hereof, and all rights and obligations hereunder shall also be governed by the laws of said Commonwealth, provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. §11303 of the Interstate Commerce Act, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Agreement as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Agreement shall

be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the markings on the units of the Equipment.

SECTION 6. This Agreement may be executed in any number of counterparts, but the counterpart delivered to Ohio National shall be deemed to be the original counterpart. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due authority, have caused this instrument to be executed in their respective names by duly authorized officials or representatives, all as of the date first above written.

(CORPORATE SEAL)

LINCOLN FIRST BANK, N.A.

WITNESS:

H. Clay Johnson

By John W. Kuhn
Sr. Vice President

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.

On this 8th day of February, 1980, before me, personally appeared John W. Kuhn, to me personally known, who, being by me duly sworn, says that he is an officer of Lincoln First Bank, N.A., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Maureen T. Cotter
Notary Public

(Notarial Seal)

MAUREEN T. COTTER
Notary Public, State of New York
No. 80-0776995
Qualified in Westchester County
Term Expires March 30, 1981

(CORPORATE SEAL)

THE OHIO NATIONAL LIFE INSURANCE
COMPANY

Witness:

Edward B. Krehel, Jr.

By

Joseph P. Brom
Vice President

Joseph P. Brom, Vice Pres., Securities

STATE OF

Ohio

COUNTY OF

Hamilton

)
)
)
ss.

On this 12th day of February, 1980, before me, personally appeared Joseph P. Brom, to me personally known, who, being by me duly sworn, says that he is an officer of The Ohio National Life Insurance Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Teresa Boothby
Notary Public

(Notarial Seal)

Teresa Boothby

Notary Public, State of Ohio

My Commission Expires Oct. 16, 1982

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Further Assignment and Agreement is hereby acknowledged as of February 8, 1980.

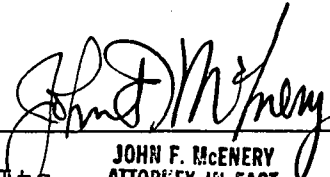
THE SWIG INVESTMENT COMPANY

By Melvin H. Swig
Its Partner

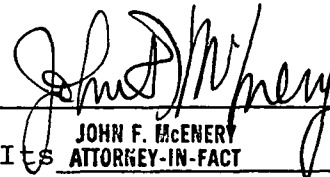
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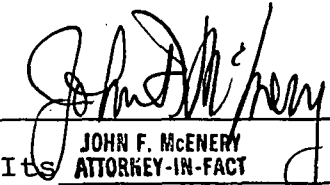
UPPER MERION AND PLYMOUTH RAILROAD
COMPANY

By 
Its JOHN F. McENERY
ATTORNEY-IN-FACT

FUNDING SYSTEMS RAILCARS, INC.

By 
Its JOHN F. McENERY
ATTORNEY-IN-FACT

FSC CORPORATION

By 
Its JOHN F. McENERY
ATTORNEY-IN-FACT

RELEASE OF INTEREST
IN CONDITIONAL SALE AGREEMENT

Document: Conditional Sale Agreement, dated December 10, 1979 between The Chessie Corporation, Vendor, and the Upper Merion and Plymouth Railroad Company, Vendee.

Filing Date: December 28, 1979
Recordation No. 11298

TO WHOM IT MAY CONCERN:

Lincoln First Bank, N.A. ("Lincoln") hereby releases and relinquishes without recourse any interest in the above-referenced Conditional Sale Agreement which was assigned by the Vendor to Lincoln, pursuant to an Agreement and Assignment, dated December 10, 1979, Recordation No. 11298-A.

(Corporate Seal)

LINCOLN FIRST BANK, N.A.

WITNESS:

H. Clay Johnson

By John W. Kuhn
Sr. Vice President

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

On this 8th day of February, 1980, before me personally appeared John W. Kuhn, to me personally known, who, being by me duly sworn, says that he is an officer of Lincoln First Bank, N.A., that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said person acknowledged said instrument was the free act and deed of said corporation.

Maureen T. Cotter
Notary Public

(Notarial Seal)

MAUREEN T. COTTER
Notary Public, State of New York
No. 60-0776995
Qualified in Westchester County
Term Expires March 30, 1981